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The rule of law at the national and international levels

Annual report on strengthening and coordinating United Nations rule of law activities

Report of the Secretary-General

Summary

This is the first annual report on United Nations efforts to strengthen engagement on the rule of law at the national and international levels. The Organization has set an important, broad agenda to this end. The focus remains on finding better ways to support Member States and their populations to build a just and secure national and international order governed by the rule of law.

The present report builds on the principal landmarks in this process thus far: the Millennium Declaration (see resolution 55/2); the 2004 report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616); the 2005 World Summit Outcome (resolution 60/1); the 2006 report of the Secretary-General entitled "Uniting our strengths: enhancing United Nations support for the rule of law" (A/61/636-S/2006/980 and Corr.1) and the establishment of new system-wide arrangements consisting of the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit, and a system of non-exclusive lead entities for various rule of law subsectors; the inventory of United Nations rule of law activities (see A/63/64); and the 2008 report of the Secretary-General on strengthening and coordinating United Nations rule of law activities (A/63/226).

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The report illustrates key achievements of United Nations support to Member States over the past year and areas in need of further concerted action. While advances to date in strengthening the rule of law at the international level must be safeguarded, much remains to be done to fortify effective multilateral cooperation based on the rule of law. At the national level, there is progress towards a more comprehensive and joint approach among United Nations entities to rule of law in support of national priorities and plans.

Efforts to ensure the overall coordination and coherence of United Nations engagement by the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General and supported by the Rule of Law Unit, continue to drive the Organization towards more strategic and effective rule of law assistance.

Submitted pursuant to General Assembly resolution 63/128, the annual report highlights ongoing implementation of recommendations made in the 2008 report (A/63/226, paras. 76-78), and new ways and means to strengthen and coordinate efforts.

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I. Introduction

1. Our rule of law work rests on a shared vision across the spectrum of the United Nations aims of peace and security, social and economic progress, and human rights. The Organization's activities are founded on the Charter and international norms and standards. The principle that all individuals and entities — including States — are accountable to the law drives efforts in this field (see S/2004/616, para. 6). Ultimately, legal protection as the means to achieve freedom from fear and freedom from want is the most sustainable form of protection.

2. The United Nations continues to be at the centre of global efforts for the promotion of the rule of law at the national and international levels. A main strength of the Organization lies in the diversity and breadth of its cumulative expertise in the rule of law, which is linked to virtually all areas of United Nations engagement. Solutions to current global challenges — such as climate change, forced displacement, counter-terrorism, armed conflict and gross human rights violations, and the economic downturn — all have important rule of law dimensions.

3. Working in countries in conflict prevention, crisis, post-crisis, conflict, post-conflict and development contexts, as well as at the global level, our engagement is increasing and remains critical. United Nations rule of law programming extends to over 120 Member States in every region of the world. In at least 50 countries, a minimum of three United Nations entities are carrying out rule of law activities. Five or more United Nations entities are currently working on rule of law in over 30 countries, 22 of which host United Nations peace operations engaged in peacemaking, peacekeeping and peacebuilding.

4. Our in-country activities continue to support all aspects of the United Nations framework for strengthening the rule of law, enhancing security and legal protection for all, particularly the poor and most marginalized, and to assist societies to develop national strategies and plans. In line with the United Nations common approach to rule of law engagement, there is progress in joint action by United Nations entities and more coordinated delivery in the field.

5. Multilateral cooperation based on the rule of law is essential for effectively addressing current and future global challenges. The Organization's support to the development, promotion and implementation of international norms and standards in most fields of international law is unparalleled. United Nations attention must focus on fortifying the interdependence and mutually reinforcing relationship between national and international rule of law.

6. Advances are being made in the overall strategic coordination and coherence efforts at the global level by the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit. Through developing overall policy direction and implementation of a Joint Strategic Plan, this arrangement is helping to improve the effectiveness of support to Member States and our responses to emerging challenges in the rule of law field. To be credible in this endeavour, the United Nations strives to ensure the rule of law within the Organization.

7. The present report is submitted pursuant to resolution 63/128, wherein the General Assembly requested the Secretary-General to submit an annual report on United Nations rule of law activities, in particular the work of the Group and the Unit, with special regard to the improvement of the coordination, coherence and

effectiveness of rule of law activities, taking note of the elements in paragraphs 77 and 78 of the report of the Secretary-General (A/63/226).

II. Fostering the rule of law at the international level

8. The General Assembly invited Member States to focus their comments in the Sixth Committee debate at the sixty-fourth session on the sub-topic "Promoting the rule of law at the international level" (see General Assembly resolution 63/128). This will provide an important opportunity for a fruitful exchange of views on this sub-topic.

9. The call for sustained reflection on the rule of law at the national and international levels is both welcome and timely. It is a testament to the strength of the Charter that international law continues to be the foundation of effective multilateral cooperation.

10. For the Organization, multilateral cooperation based on the rule of law rests on commonly agreed principles, long supported by Member States. These principles are enshrined in, and underpin, the Charter of the United Nations and have been further developed over the years. In an international order where the exercise of power is subject to law, States must fulfil their international obligations, particularly with respect to the Charter, irrespective of their domestic law, and establish effective internal mechanisms, where necessary, in order to ensure compliance.

11. While compliance with international law is widespread, the less frequent violations of international law tend to attract more attention. This is seen, for example, in efforts to promote disarmament and to prevent the global spread of weapons of mass destruction. Multilateral treaties have been remarkably effective in outlawing biological and chemical weapons and in strengthening controls against the proliferation of nuclear weapons. Member States are even now removing impediments to progress in the difficult field of nuclear disarmament.

12. Nonetheless, in many areas, violations of international law are still too frequent and the political will to consistently ensure compliance too weak. As the Geneva Conventions enter their sixtieth year, and the Security Council reflects on 10 years of efforts to protect civilians in armed conflict, the deficit in adherence to the rule of law in this context is startling and a matter of grave concern.

13. For any conception of the rule of law at the international level, peaceful means to address alleged violations of international law are essential.[1] Member States have repeatedly recognized the need to strengthen international dispute settlement mechanisms (see General Assembly resolution 55/2).

14. It is encouraging that greater use is being made of treaty-based mechanisms than ever before, notably the International Court of Justice. The Court is considering an increasing number of contentious cases on a broad range of issues of public international law, such as international criminal law, maritime delimitation, jurisdictional immunities and navigation rights. In the past year, the Court was also requested by the General Assembly to provide an advisory opinion on whether "the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo is in accordance with international law" (see resolution

[1] Article 33 of the Charter of the United Nations.

63/3). The trend towards greater utilization of the Court in the peaceful settlement of disputes should be encouraged.

15. The pursuit of individual responsibility for crimes under international law has advanced steadily since the Security Council established the International Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda in the 1990s. Though temporary in nature, the value these judicial mechanisms bring to the field of international criminal law is enduring. For the ad hoc tribunals, as well as the Special Court for Sierra Leone, the challenge is now planning for a mechanism to carry out residual functions after completion, and promoting and preserving their legacy.[2]

16. The United Nations supports many means of fact-finding and combating impunity. Recently, the International Independent Investigation Commission established pursuant to Security Council resolution 1595 (2005) terminated its work, and the Special Tribunal for Lebanon commenced functioning to prosecute those responsible for the death of former Prime Minister Rafiq Hariri and other crimes under the jurisdiction of the Special Tribunal. The Organization provides assistance to the independent international fact-finding mission established by the Human Rights Council in early 2009 to investigate possible violations of international law in Gaza between December 2008 and January 2009 (see Human Rights Council resolution S-9/1). Pursuant to Security Council resolution 1612 (2005), regular monitoring, reporting and response takes place on grave violations of international law against children in armed conflict. Accountability of perpetrators of such violations has been further advanced recently by Security Council resolution 1882 (2009).

17. It is most timely that the permanent International Criminal Court began its first trial this year. The Organization continues to provide critical support to the International Criminal Court based on its relationship agreement with the Court. Member States are encouraged to ratify the Rome Statute without delay and to cooperate with the Court.

18. The Charter of the United Nations is a constant reminder that one of the fundamental purposes of the Organization is to maintain international peace and security in conformity with the principles of justice and international law. As a community, we must not lose sight of the remarkable progress which has been achieved. Advances to date must be safeguarded.

19. Strengthening the rule of law at the international level is critical to effectively address global challenges. In the area of environment, the United Nations supported capacity-building of negotiators from developing countries to participate in devising a comprehensive framework on climate change to be finalized in Copenhagen in 2009. With respect to piracy, the Organization provides advice and assistance to States in, among others, the uniform and consistent application of the provisions of the United Nations Convention on the Law of the Sea, which constitutes the international legal framework for the repression of piracy.

20. Doubtless, much work remains if the rule of law at the international level is to be fortified. Moving this agenda forward requires the active engagement of Member States. An ongoing, open discourse should assist in formulating concrete and

[2] One legacy initiative is the 2009 ICTY Manual on Developed Practices, prepared by the International Tribunal for the former Yugoslavia in conjunction with the United Nations Interregional Crime and Justice Research Institute.

innovative measures to this end. In this regard, under the leadership of the Deputy Secretary-General, the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit, initiated in 2009 the dialogue with Member States on the rule of law at the international level. This initiative — which should further strengthen the work of the Organization in this field — should be welcomed.

21. The linkages between the rule of law at the national and international levels are substantial and multifaceted. The United Nations increasingly focuses on the critical interface between the two, enhancing their mutual dependence and reinforcing nature. The field of international refugee law provides an illustration of such efforts, as this year, the United Nations began with States to review progress in implementation of the Agenda for Protection and its Programme of Action, an agreed framework to pursue refugee protection priorities worldwide. The goal is to target more effectively support for States to provide protection and durable solutions for refugees nationally and internationally.

22. The overall aim of United Nations rule of law activities is to find better ways to support Member States to achieve compliance with international obligations, to ensure the domestic implementation of international norms and standards, and, most critically, to strengthen the institutions, policies, processes and conditions that ensure an effective and just national and international order.

III. United Nations approach to the rule of law at the national level

23. Key elements of the United Nations approach to rule of law assistance in countries were outlined in the 2008 report (A/63/226, paras. 17-21). They consist of guiding principles for the provision of assistance, as well as a practical and comprehensive framework for support in line with national priorities, strategies and plans. Key achievements in United Nations rule of law programming at the national level during the past year using this framework illustrate ongoing efforts, and areas in need of further concerted action. The Organization must enhance implementation of this approach, and demonstrate the impact of activities on the rule of law in the societies it serves.

A. Framework for strengthening the rule of law

1. Constitution-making

24. United Nations support to constitution-making processes remains a critical component of its rule of law work. The system-wide approach to constitution-making is described in recently revised guidance, developed by the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit.

25. The policy framework for this assistance is centred on national ownership and support for inclusive, participatory and transparent processes. Support is to be tailored to the specific national context, and is drawn from a wide range of United Nations expertise. Advance planning, including public awareness and consultation, is critical as is adequate follow-up to ensure implementation. The United Nations encourages constitutional approaches that directly incorporate and make supreme

international human rights standards, including an independent and impartial judiciary, as a strong foundation for the rule of law.

26. This approach is reflected in recent efforts. In Nepal, the United Nations supports the Constituent Assembly's outreach campaign to secure broad-based, meaningful public participation in the constitution-building process, including training newly elected female members of the Assembly, civil society and others on women's rights and their integration in the new constitution. Constitutions adopted in Ecuador in 2008 and in the Plurinational State of Bolivia in 2009 align with key aspects of the Convention on the Elimination of All Forms of Discrimination against Women, with support from the Organization.

2. The national legal framework

27. The Organization has long assisted countries to develop their national laws to incorporate international norms and standards. The many universal, non-binding principles and standards in most fields of international law developed jointly by States assist in formulating legislation and policy reflective of good practice. Recent successes of support to countries illustrate this.

28. Significant legislation on children's rights was adopted in Egypt, Nigeria, Uruguay, and — after a nearly 12-year consultative process — in South Africa, with United Nations support. New juvenile justice legislation was passed or legislative revisions were made in Albania, Angola, Montenegro, Mozambique and Thailand.

29. Action with respect to adoption of international trade law instruments was taken by Albania, Armenia, the Dominican Republic, Guatemala, Lebanon, Mauritius, Peru and Rwanda. Best practices resulted in two recent United Nations draft guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters, and on liability, response action and compensation for damage caused by activities dangerous to the environment.

30. Our efforts also support establishing the legal basis for institutional strengthening, and governance, oversight and accountability. In Timor-Leste, for example, the peacekeeping mission supported the development of laws and regulations governing the police, defence force, Ministry of Defence and Security, and national security.

31. All Member States need to ensure that their domestic legislation is in conformity with their international obligations, when required. Failure to do so, whether as a result of lack of political will or capacity, undermines the rule of law at the national and international levels.

3. Institutions of justice, governance, security and human rights

32. Constitutional guarantees and laws mean little without implementation. United Nations assistance thus helps to strengthen institutions, both formal and informal, to be well structured and financed, trained and equipped to make, promulgate, enforce, uphold and adjudicate the law — criminal, public or private — in a manner that ensures protection, security and safety, and access to justice for all.

33. With the support of the United Nations, a substantial three-year justice programme was established in the Occupied Palestinian Territory to develop the

institutional capacity of the Ministry of Justice, enhance access to justice at the grass-roots level, and build confidence between justice sector actors and the public. Similar support was provided in 2009 in Colombia, Kosovo, Liberia, Sierra Leone, Sri Lanka and Timor-Leste.

34. The European Union Rule of Law Mission in Kosovo (EULEX) assumed full operational responsibility in the area of rule of law (police, customs and justice) in Kosovo on 9 December 2008, in the wake of a Security Council Presidential Statement (S/PRST/2008/44), by which the Council welcomed the deployment of EULEX within the framework of Council resolution 1244 (1999) and under the overall authority of the United Nations. In Timor-Leste, United Nations police transferred responsibilities to national police in March 2009, marking a key step towards greater peace and security. The police component of the United Nations Mission in the Central African Republic and Chad played a central role in the establishment of the Détachement intégré de sécurité in early 2009. In four African countries, police and military helpdesks and hotlines for violence against women are being established, with United Nations assistance, on the basis of the pioneering work done in Rwanda.

35. Capacity-building of prison personnel and infrastructure reform is being implemented through collaborative United Nations and donor projects in the Sudan. An innovative programme on victim and offender mediation is supported by the United Nations in Turkey as an integrated part of the criminal justice process. In Armenia, Georgia, Indonesia, Maldives, Myanmar and Nepal, justice for children components were included in the training curricula for the police, judiciary and/or lawyers. The Judicial Institute in Haiti was established in 2009 with the support of the peacekeeping mission.

36. The Organization helps to strengthen institutions and processes that adjudicate public and private law, and allow individuals to claim their rights. In the Occupied Palestinian Territory, after labour union campaigning, the appointment of labour judges since July 2009 allows Palestinian workers to submit grievances against employers. The problem of the status of the Bihari/Urdu speakers of Bangladesh, one of the largest protracted situations of statelessness in the world, was resolved with United Nations support in 2008 through the confirmation of nationality by voter registration, and the issuance of national identity cards, with their becoming eligible to participate in the elections in December 2009. In Côte d'Ivoire, the United Nations assisted 6,000 people to acquire birth certificates and other identity documents. In Morocco, support to strengthening the capacities of family sections in first instance courts and establishing a training unit in the Ministry of Justice furthers implementation of the landmark 2004 Family Law granting new protections to women in marriage and divorce.

37. United Nations assistance also targets alternative mechanisms for dispute resolution and informal systems that apply customary, traditional or religious laws and practices. In many developing countries, such systems are estimated to handle 80 per cent of cases. An accomplishment is the establishment of the Arbitration Council, the only national, statutory alternative dispute resolution body in Cambodia. Another example is efforts to explore with Islamic community leaders in southern Kyrgyzstan the convergence between basic principles of sharia and the laws regulating property disputes from a gender perspective.

38. The United Nations joint study on informal justice systems is currently analysing the characteristics of these mechanisms in all regions of the world, their linkages with the formal system, and their human rights implications, with a view to identifying programming opportunities and challenges. This will help the Organization to develop a coherent approach to better respond to demands for assistance in the complex contexts of legal pluralism.

4. Transitional justice

39. To ensure accountability, serve justice and achieve reconciliation, the United Nations supports processes and mechanisms addressing the legacy of large-scale past abuses in countries. These may include judicial and non-judicial mechanisms, individual prosecutions, reparations, truth-seeking, institutional reform, or a combination thereof. United Nations field presences recently aided such initiatives in Burundi, the Democratic Republic of the Congo, Kenya, Guatemala, Guinea-Bissau, Liberia, Nepal, Sierra Leone, Somalia, Togo and Uganda.

40. In Nepal, the United Nations supported the Government in conducting consultations on the draft bill to establish a Truth and Reconciliation Commission. In Togo, as a result of a United Nations-supported national consultative process, the Truth and Reconciliation Commission was established by Presidential Decree in May 2009. Consultations supported by the Organization began recently on prospective transitional justice mechanisms in Burundi. United Nations leadership in Guinea-Bissau advocated for support to the Commission of Inquiry on the assassination of the late President and the Army Chief of Staff. The Bhutto Commission in Pakistan began its investigations on 1 July 2009. In many countries, results include that transitional justice mechanisms cover crimes against children, respond to their needs as victims, and give them a voice in the process in line with their best interests.

41. The United Nations maintains a long-standing policy of opposing amnesties for war crimes, crimes against humanity, genocide and other gross violations of human rights and serious violations of international humanitarian law. The newly published *Rule-of-Law Tools for Post-Conflict States. Amnesties*[3] by the Office of the High Commissioner for Human Rights identifies core principles of international law that guide policy in this regard. Guidance will be elaborated in the coming year to strengthen system-wide engagement in transitional justice-building on the common approach set out in 2004 (see S/2004/616).

5. Empowering individuals and civil society

42. Most of the world's poor and marginalized live day-to-day with widespread impunity for violations of their rights. Some estimate that more than 4 billion of the world's poor are excluded from the rule of law.[4] Adherence to the rule of law requires a culture of legality and legal empowerment that addresses this exclusion so that all persons know and can seek protection of their rights and entitlements. Increasingly, United Nations efforts assist individuals and communities, particularly the poorest and most marginalized, and those affected by conflict and crisis, to

[3] United Nations publication, Sales No. E.09.XIV.1.

[4] Commission on Legal Empowerment of the Poor and the United Nations Development Programme, *Making the Law Work for Everyone: vol. 1: Report of the Commission on Legal Empowerment of the Poor*, 2008.

access legal protection, to resolve disputes peacefully and respond to safety needs and concerns.

43. Legal and paralegal assistance is a growing area of United Nations support with recent initiatives in over 25 countries and at the regional level in West Africa. Assistance covers legal representation in criminal cases for victims, witnesses and alleged perpetrators, as well as for the protection of entitlements, such as property rights. In 2008, 14 governorate-level Protection Assistance Centres were established in Iraq and have provided legal assistance services to over 30,000 individuals, of which 38 per cent were women. Recent efforts in Darfur of the Sudan, Somalia and Sri Lanka produced results in legal representation of gender-based violence victims, legal education, and legal services to internally displaced persons, respectively.

44. A complementary approach taken by the United Nations is supporting public interest litigation to achieve broader social impact for marginalized groups and vulnerable communities. A recent publication, *Justice for the Poor*, reviews the state of public interest litigation for enforcing the rights of poor communities using examples from India, Kenya and South Africa.

45. Development of civil society capacity to help to reduce the abuse of power, authority and prevalence of corruption, monitor and evaluate land reform and land records systems, and improve security and justice service delivery remains one of the primary targets for assistance. In many conflict-affected contexts, the Organization is catalysing debate in civil society on efforts to reform security and justice institutions, so as to ensure that policy reflects transparent, pluralistic dialogue between authorities and the communities they serve.

B. Addressing critical challenges

46. The Organization continues to identify and address critical areas of rule of law engagement, ensuring our support is balanced and responsive to the needs of Member States. In some of these areas, action has been taken, while others continue to demand more concerted effort. Member States need to be informed of the challenges faced in providing rule of law assistance at the national level to foster attention to address them.

1. Early engagement in conflict and post-conflict societies

47. Early and appropriate engagement on the rule of law is the cornerstone of coherent, strategic intervention and long-term success in countries affected by armed conflict. Through a sequenced approach which addresses immediate needs for legal protection while also laying the building blocks for long-term justice reforms, United Nations rule of law assistance aims to empower communities and gradually restore confidence in the rule of law among displaced populations and targeted groups.

48. The Organization is developing its in-house expertise through training, as well as partnering with others to provide standby teams and maintain rosters of experts able to respond to immediate needs in rule of law, including recently in security institutions. The Standing Police Capacity deployment to missions in the Democratic Republic of the Congo, Guinea-Bissau and Liberia resulted in new strategic approaches in support of national authorities. While the deployment of

police has improved tremendously, that of justice and corrections experts lags seriously. Thus vital opportunities for meaningful partnerships with national actors, and strategic, well-coordinated approaches to criminal justice support are often missed in the start-up phase of peace operations.

2. Detention and corrections

49. Long recognized is the importance of a strong and humane correctional regime to the protection of human rights, and effective criminal justice. The majority of persons detained globally, including children, are awaiting trial, sometimes for years. Over 1 million[5] children are estimated to be detained by justice systems worldwide. Prison conditions in many countries, in particular those affected by conflict and crisis, are dire in terms of disease, sanitation and the need for water and food. Violence in prisons worldwide, especially against women and children, is a silent epidemic. The lack of access to education, health care or family contacts for long periods affects all prisoners particularly children. Inhumane conditions often lead to deaths, prison riots, escapes, and other disturbances, and jeopardize the chances of social reintegration. It is no surprise that high levels of "recidivism" among former detainees remain a great challenge for United Nations efforts towards crime prevention.

50. Despite this dismal picture, prisons and detention policy are still underserved by rule of law programming and resources. Solutions rarely require the building of more prisons, but rather resources for capacity-building of staff and in the social reintegration of offenders in prison settings and post-release to reduce social exclusion and recidivism. For children, diversion from judicial proceedings and alternatives to the deprivation of liberty must be priorities. Sustainable solutions to excessive pre-trial detention lie mainly in improving the administration of justice.

51. Stakeholders in the rule of law need to jointly address these challenges. In 2009, in partnership with Sweden, the United Nations organized the first international conference on the role of corrections in peace operations, with delegates from 24 Member States. The number of countries contributing corrections experts to peace operations thereafter increased from 14 to 17.

3. Sexual and gender-based violence

52. In efforts to tackle the scourge of sexual and gender-based violence, the Organization successfully focused more on the rule of law dimensions over the past year. One specialized agency allotted 20 per cent of total funds from its global rule of law programme in conflict and post-conflict environments to gender justice components. The United Nations has gathered significant good practice in legislation on violence against women. In 2008, United Nations support resulted in the adoption of many new laws, policies or national strategies to address multiple forms of violence against women, including domestic violence, trafficking, and female genital mutilation.

53. Yet, weaknesses in laws, procedures and institutions — and in political will — in many countries make holding perpetrators accountable and providing adequate protection, services and reparations for victims nearly impossible. Profoundly

[5] This figure is likely a significant underestimate given the difficulties in obtaining data about children in detention.

challenging are situations where those responsible for upholding the rule of law, such as members of the police and military, constitute the alleged perpetrators. Here, efforts must centre on strengthening political will, prevention and combating impunity. The ongoing struggle against these violations will require systematic, coherent and consistent rule of law support to national efforts over the long term.

4. Housing rights, property and land governance

54. The failure of the rule of law is often most visible in the vast numbers of slums that exist globally, with currently over 1 billion people living in informal settlements. There are a growing number of unlawful forced evictions of residents from their homes. As we face a global economic crisis, recent international initiatives to highlight the legal empowerment of the poor are to be commended for drawing worldwide attention back to the linkages among poverty, legal exclusion and injustice.[6]

55. Securing housing rights and strengthening property restitution and land governance — the process of decision-making on access to and use of land, the implementation of those decisions and the reconciliation of conflicting interests in land — are critical to many global goals. The United Nations is developing inter-agency guidelines on good practices on land governance, and the International Labour Conference, at its ninety-eighth session, held in June 2009, drew attention to the relationship between property rights and fostering women's entrepreneurship opportunities. Yet, the system is greatly under-resourced in these areas, and must increase assistance in the reconciliation of land interests in a world where conflict over land is on the increase.

C. Strategic and joint engagement at the country level

56. System-wide guidance on the United Nations approach to rule of law assistance provides an overall policy direction towards more consistent use of joint assessments, and joint development of rule of law strategies and programming by United Nations entities, rooted in meaningful leadership by national stakeholders. Increasingly, United Nations entities are taking a more comprehensive and strategic approach to the rule of law at the country level, which involves jointly planning and implementing programmes. Effective coordination and strong partnerships with other stakeholders are also key.

57. Success in country requires shared working methods and partnerships at the Headquarters level that translate into coherent support to the field. A new global partnership between the United Nations Development Programme (UNDP) and the United Nations Office on Drugs and Crime targets consistent and coherent technical assistance in support of Member States' efforts in criminal justice and anti-corruption. The Department of Peacekeeping Operations and other partners developed a joint strategy for rule of law assistance in eastern Chad, and plan a similar initiative with UNDP in Southern Sudan.

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[6] See, for example, Commission on Legal Empowerment of the Poor and UNDP, *Making the Law Work for Everyone: vol. 1: Report of the Commission on Legal Empowerment of the Poor*, 2008; General Assembly resolution 63/143; and document A/64/133.

58. The point of departure for effective efforts is assisting national stakeholders with the development of national strategies and plans on the rule of law. The newer generation of strategic assistance frameworks illustrate that rule of law activities are gaining prominence, with at least 40 countries from across all regions including rule of law in the priorities and outcomes of their national plans. The United Nations recently supported the development of a national security strategy in Liberia and supported development plans in Burundi and the Democratic Republic of the Congo.

59. Support to national planning is complemented by increasing joint United Nations action. An integrated Rule of Law Task Force was established by the United Nations Assistance Mission in Iraq to develop a comprehensive strategy in synergy with Iraqi efforts to formulate its National Development Plan 2010-2014. The 2008-2012 United Nations Development Assistance Framework for Liberia created a rule of law thematic group that endorsed a national common approach to child justice, leading to the development of a joint programme.

60. The United Nations Integrated Office in Burundi is pooling the resources and expertise of five entities into an effort on security, justice and transitional justice involving shared workplans and budgets. In Afghanistan, the National Justice Sector Strategy and the National Justice Programme form the basis of a collaborative and strategic nationally led justice reform process, supported by a Provincial Justice Coordination Mechanism established by the United Nations Assistance Mission in Afghanistan and UNDP.

61. In the area of crime prevention, joint assessment and programming missions were carried out by the United Nations Office on Drugs and Crime and the United Nations Human Settlements Programme (UN-Habitat) Safer Cities Programme in Honduras and Nicaragua, and by five United Nations entities in the Armed Violence Prevention Programme in Kenya.

62. Signs of an evolving United Nations-wide approach on the ground are encouraging. They do not reflect, however, a shared and consistent methodology nor a comprehensive approach to the rule of law. To improve coherent United Nations support for national efforts, the Organization is reviewing national development plans to assess how rule of law is reflected in national priority-setting, and approaches to developing and implementing overall rule of law, or specific justice or security, strategies.

63. Every opportunity should be grasped to implement our approach to rule of law assistance at the national level, including developing shared methodologies on assessment and programming. This should be a key focus of overall coordination and coherence efforts. With more than 90 United Nations assistance frameworks in support of national strategies and plans to be rolled out over the next three years, the time is ripe to accelerate progress in this direction.

IV. Overall coordination and coherence

64. Ultimately under my authority and direction, responsibility since 2007 for the overall coordination and coherence of the rule of law within the United Nations system rests with the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit under the leadership of the Deputy Secretary-General (see A/63/226, paras. 46-48). Through a deliberative process and targeted initiatives, the

Group is making progress in marshalling the unique wealth of expertise and resources of the Organization on the rule of law. The aim is to more effectively and coherently deliver on mandates and respond to emerging challenges in the rule of law field. The expression of full support by the General Assembly for this arrangement is heartening (resolution 63/128), and will continue to be essential for success.

65. The Group, supported by the Unit, acts as focal point for system-wide attention on the rule of law so as to ensure quality, policy coherence and coordination. Operational activities are undertaken by United Nations entities and lead entities bear responsibility for coordinating and facilitating efforts in their respective subsectors of the rule of law (see A/61/636-S/2006/980 and Corr.1).

A. Providing guidance and implementing the Joint Strategic Plan

66. To improve the overall policy coherence of the Organization's engagement on rule of law, I have given broad strategic direction on cross-cutting issues since 2008. Developed by drawing on the expertise of the Group and the Unit, such guidance outlines principles and frameworks that underpin improved effectiveness of United Nations rule of law work.

67. Early results from this guidance are encouraging. Following the issuance of the United Nations approach to justice for children in September 2008, the United Nations Children's Fund tracked impact at the country level and found that United Nations entities in 49 countries incorporated children's issues in their rule of law efforts. Strengthened United Nations-wide initiative is needed to further implementation, and country presences are encouraged to determine how best to do so in their particular context.

68. I have reaffirmed the role of the Group, supported by the Rule of Law Unit, as the convening mechanism for United Nations constitutional assistance. This is to ensure timely and effective mobilization of a combination of expertise (e.g., political, human rights, development and legal) that resides across various departments and agencies. United Nations entities and senior leadership in the field should inform the Deputy Secretary-General of requests for constitutional assistance emanating from national and transitional authorities.

69. One of the Group's functions is to act as a resource on the rule of law for the Peacebuilding Commission and the Peacebuilding Support Office. In furtherance of this, in October 2008, a session on rule of law assistance was held in the Working Group on Lessons Learned. The Organizational Committee was briefed on ways its efforts can be supported, including mobilizing United Nations system expertise to advise on the rule of law aspects of peacebuilding strategies, support technical and comprehensive assessments, and contribute substantively to Working Groups dedicated to rule of law issues. Review of relevant emergency projects and priority plans funded from the Peacebuilding Fund, which supports many rule of law activities in several countries, is another means. This support needs to be operationalized.

70. Taking a more results-oriented approach to its tasks, the Group adopted and began implementing a Joint Strategic Plan for the period 2009-2011. This first Plan is targeted at three principal outcomes as outlined below, to be achieved collectively

by the Group through a set of defined outputs over the next three years. This initial collective road map — the first of its kind in the rule of law field — deserves to be strongly supported.

71. A principal outcome of the Plan is to implement the United Nations common approach to rule of law assistance at the national level. The Group is exploring countries that would benefit from coordinated support, and helping to develop shared methodologies for joint assessment, strategy development and programming to be reflected in guidance that can be applied in other contexts.

72. Another principal outcome is strengthening the coherence, quality and coordination of rule of law policy and guidance. A system of information-sharing and endorsement by the Group is being established for rule of law guidance material of system-wide relevance developed individually or jointly by Group members. In 2006, the Secretary-General recognized the lack of a formal process for the Secretariat to endorse materials to ensure coherence in doctrine or approach, and to avoid overlap (ibid., para. 28). The system addresses this, maximizing knowledge and good practice available within the Organization. Group members are thus strongly encouraged to utilize it.

73. A United Nations unified rule of law training for staff, currently being developed by the Group as part of the Plan, will be a key means of disseminating endorsed guidance and overall policy direction given by the Secretary-General. Material will also be accessible through the United Nations Rule of Law website and document repository to be launched in 2009.

74. Building on Member States' continuous commitment to the rule of law, illustrated by the 2005 World Summit Outcome, the Plan identifies as its last outcome support to Member States to reinforce global action for the rule of law at the national and international levels. I consider this crucial to further the peace and security, and development objectives of the Organization, and would therefore support a high-level initiative by the General Assembly dedicated to the rule of law.

B. Reaching out system-wide

75. The breadth and diversity of our activities in this field is an unparalleled strength of the Organization. The inventory identifies at least 40 United Nations entities engaging in some kind of rule of law activity (see A/63/64). This enables the Organization to make a rich contribution to the enhancement of the rule of law around the world. Reaching out to this wider set of United Nations rule of law actors is thus critical to overall strategic efforts.

76. The first annual system-wide meeting on the rule of law was held in June 2009. Attended by 27 entities of the United Nations system, it examined ways to strengthen the linkage between the normative and operational work of the system — a disconnect we continue to face in this field of assistance. This consolidated a system-wide network at the Headquarters level of 37 rule of law focal points to allow sharing of the work of the Group, and drawing on expertise that exists throughout the system. Annual system-wide meetings are precious opportunities for in-depth exploration of improving effectiveness of assistance in key rule of law areas. The United Nations Rule of Law website will be a hub for all entities to link their websites and disseminate widely their rule of law materials.

77. Strengthening United Nations-World Bank cooperation on the rule of law is also an important recent initiative. The World Bank has long-standing experience in crucial aspects of rule of law assistance, such as legal and judicial reform, justice for the poor, and public administration and governance of rule of law institutions. The first step in this partnership has been a workshop held to share knowledge and explore ways to effectively draw on the respective expertise of each organization.

78. An emerging need is enhancing coordination of the United Nations system's rule of law work that strengthens the realization of economic, social and cultural rights. Rule of law work should be more firmly grounded in the development agenda of the Organization. Careful and context-specific analysis of the relationship between law and economics, and the impact the economic crisis has on legal protection, justice and security for the most vulnerable and marginalized populations is important. While all United Nations entities and inter-agency networks should contribute to this effort, the collective engagement of the system at the level of the executive heads will be critical. I will propose that rule of law be the subject of a thematic discussion at a forthcoming session of the United Nations System Chief Executives Board for Coordination.

C. Measuring effectiveness and evaluating impact

79. Evaluating the impact of rule of law assistance and measuring its effectiveness remains a major challenge. More realistic assessments of what can be achieved and in what time frames are related to this. The lack of systematic, ongoing analysis of the functioning of rule of law institutions and processes, particularly of national justice systems, remains an obstacle to effective programming. The Organization is moving towards tracking progress in the development of rule of law and evaluating its efforts more systematically.

80. Some promising initiatives in measurement and indicators are under way. The United Nations Rule of Law Indicators Project is taking an innovative approach by using multiple data sources, including public surveys, to make up for deficiencies in administrative data in conflict-affected environments, and to improve the accuracy of results. Draft indicators are being tested in Haiti and Liberia to assist national authorities to help reform efforts through empirical assessment of the performance of criminal justice institutions at a given time and over time.

81. The *Manual for the Measurement of Juvenile Justice Indicators*,[7] which allows for analysis of the specific situation of girls in justice systems, was rolled out in the regions of South Asia, the Middle East and North Africa, resulting in national action plans in 15 countries. A gap in knowledge generation and measuring the impact of interventions on children and communities is being filled by guidance developed by the Inter-Agency Panel on Juvenile Justice.

82. Efforts to share lessons and collect good practices across the system and countries help to overcome structural impediments to institutional knowledge development. The communities of practice of UNDP, the Department of Peacekeeping Operations and the Peacebuilding Support Office hosted an e-discussion entitled "Strengthening the rule of law in conflict and post-conflict situations". The UNDP Asia Pacific Regional Centre assessed its access to justice

[7] United Nations publication, Sales No. 07.V.7.

programming in 2009, drawing on community of practice experiences and case studies in Afghanistan, Cambodia, India, Indonesia, Maldives, Nepal and Sri Lanka. More systematic collection of lessons learned must remain a priority.

83. National perspectives on the effectiveness of rule of law assistance is central to the 2009 publication, *Searching for Success in Judicial Reform*, by the Asia Pacific Judicial Reform Forum and UNDP. It explores key challenges in this aspect of assistance, and analyses reform programmes in Cambodia, India, Indonesia, Nepal, the Philippines, Sri Lanka and Vanuatu, providing insights relevant to efforts globally.

84. Building on these initiatives, the Group plans to increase the collective knowledge base on rule of law development and the impact of assistance system-wide. The Group, with the support of the Unit, will bring together research institutes and social scientists from around the world to explore a shared research agenda to this end. Joint efforts on monitoring and evaluation of programming are part of the Group's Joint Strategic Plan, involving agreement on baseline data and a common tool. This new approach should help to move the United Nations system closer to a common assessment of the impact of programming in this field, and better sharing of results across the system.

D. Expanding partnerships

85. A key aim of the overall coordination and coherence efforts is to develop meaningful partnerships with all stakeholders to successfully promote the rule of law, and strengthen the assistance provided to Member States and societies. United Nations goals cannot be achieved by working in isolation.

86. I called upon Member States, donors and civil society to work with the Organization to move the rule of law agenda forward by overcoming the legacy of disjointedness that has hampered effectiveness of efforts (see A/63/226). Too often, a declared commitment to national ownership is belied by donor-driven projects, and uncoordinated programming involving foreign imported solutions and implementation by nationally affiliated donor partners. Donors label and approach the same rule of law issues differently. Though joint approaches and coordination mechanisms in countries exist, there is little comparative analysis of practice and consistency of method. The need for greater coherence is starkest in conflict-affected situations where many actors are present.

87. At a conference organized by the United Nations in cooperation with the United Kingdom of Great Britain and Northern Ireland, 70 representatives of bilateral donors, recipient countries, international and regional organizations and non-governmental organizations met to review practices and challenges across the field, and to advance a consensus on ways to address these challenges. In follow-up, donors agreed to establish an advisory panel on security and justice — consisting of experts from the north and south, and Government and civil society — in the context of efforts to improve assistance in conflict-affected and fragile States. Bringing together the justice and security policy communities, and empowering recipients and civil society to contribute to policymaking is a promising beginning, which the United Nations will support and complement as needed.

88. Support to strengthening the rule of law at the regional level is an emerging avenue for partnerships. Many challenges faced today are regional in nature, involving cross-border dynamics and consequences that impact stability and justice in the region. Regional institutions and actors can make substantial contributions to the rule of law. While the relationships among domestic, regional and international legal regimes can be complex, strengthening the rule of law at all levels in a coherent and mutually reinforcing way is critical.

89. Increasingly, United Nations rule of law programmes are targeted to assist regional agendas, particularly in Africa. In support of the Economic Community of West African States, three entities of the Secretariat and the International Criminal Police Organization are working together to combat drug trafficking and organized crime through the West Africa Coast Initiative. To combat the increase of piracy off the coast of Somalia, the Organization assists Kenya and other countries in the region in prosecuting suspected pirates. The African Union receives capacity-building support to develop a regional approach to strengthening security institutions.

90. These initiatives must be undertaken within a broader paradigm shift that places national perspectives at the centre of efforts to make rule of law assistance more strategic and effective. The United Nations, with its universal membership, is well placed to lead by example and empower national experts and leaders and civil society organizations to contribute to evolving rule of law policy and goals. The twelfth United Nations Congress on Crime Prevention and Criminal Justice, to be held in Brazil in 2010, is an important forum in which to explore these issues.

91. To spearhead this effort, the United Nations will support a process with national leaders from developing countries who played a key role in rule of law development, to explore the dynamics behind the concepts of national and local ownership, and to analyse the effectiveness of international support in their countries. These views will form a report intended to offer innovations for the field and inform policymaking. This is a targeted contribution to an agenda which, to be successful, requires commitment by all stakeholders to enriching the discourse on the rule of law with meaningful recipient perspectives and engagement.

E. Strengthening the rule of law in the Organization

92. The United Nations should be the model of the rule of law if the Organization is to be effective in promoting it. I am pleased that the new system of administration of justice started functioning on 1 July 2009. For the first time in the Organization's history, 15 professional judges were appointed to adjudicate appeals against administrative decisions, including decisions to impose disciplinary measures.

93. Further advances have been made towards ensuring fair and clear procedures for placing individuals and entities on sanctions lists and for removing them. The Focal Point for De-listing[8] has processed 41 de-listing requests, several of which were submitted on behalf of more than one individual or entity, and out of which 9 individuals and 12 entities have been de-listed by the relevant sanctions committees. Following the adoption of Security Council resolution 1822 (2008) concerning the Al-Qaida and Taliban sanctions regime, individuals and entities

[8] Established pursuant to Security Council resolution 1730 (2006).

should be notified of their listing and de-listing, including of the publicly releasable portion of the statement of case which states, when proposing a listing, are now required to identify; a narrative summary of reasons for listing will be made available online; and all names will be reviewed by 30 June 2010 with a regular review carried out thereafter.[9] While the Council has improved the procedures for listing and de-listing, further steps should be taken, including with respect to the procedures for granting humanitarian exemptions to sanctions measures.

94. The Organization needs to address directly the serious concerns raised about approaches to counter-terrorism that belie Member States' commitment to the rule of law. In 2009, the Eminent Jurists Panel of the International Commission of Jurists concluded its four-year examination of the impact of counter-terrorism strategies on the rule of law and the protection of human rights nationally and globally. Despite the commitment of the international community to the contrary, the Panel found that practices had undermined the legitimate aims of counter-terrorism. It is up to individual Member States as well as the Organization to restore confidence that methods to address this serious global threat can indeed reinforce the rule of law.

V. Cultivating a just, secure and peaceful world governed by the rule of law

95. The United Nations continues to make progress in strengthening its engagement on the rule of law at the national and international levels. The focus is on bridging the divide between international commitments and the realization of their potential to improve the lives of all. This is an enduring endeavour. Thus, we must consistently remind Member States of their international obligations, promote ratification of international treaties and implementation of international norms and standards, and preserve in this regard effective multilateral engagement based on the rule of law.

96. Increasing joint action by United Nations entities on the rule of law and more coordinated delivery in the field illustrates advances in maximizing our expertise and resources. Through joint and strategic efforts, the institutional arrangements for overall coordination and coherence are gradually moving the United Nations closer to bridging the divide.

97. The recommendations set out in my last report remain as critical today (A/63/226, paras. 76-78). Their implementation is ongoing. In addition, under the leadership of the Deputy Secretary-General, the Rule of Law Coordination and Resource Group and the Rule of Law Unit will:

(a) Support efforts by donors to establish a policy platform bringing together recipients, civil society experts and multilateral organizations to address current challenges in rule of law assistance;

(b) Consult with regional stakeholders on effective means for strategic collaboration on rule of law issues at the regional level;

[9] Similar improvements were made to sanctions regimes concerning Somalia (resolution 1844 (2008)) and the Democratic Republic of the Congo (resolution 1857 (2008)); elements thereof were also incorporated into the sanctions regime concerning Liberia (resolution 1854 (2008)).

(c) Convene relevant United Nations entities and agencies to explore enhancing rule of law activities that protect economic and social rights, including a coherent United Nations approach to housing rights, property and land governance that strengthens capacities, including in conflict-affected countries;

(d) Enhance approaches to rule of law activities aimed at strengthening the capacity of Member States to end impunity by consolidating the legacy of international and national efforts to date.

98. These steps are reflective of the work still ahead to improve the effectiveness of United Nations rule of law assistance and to align efforts of partners in this regard. Global partnerships that promote shared objectives and methods are essential if assistance is to improve. National perspectives must lie at the centre of discourse. Ultimately, the imperative remains to strengthen empirical analysis and assessment of rule of law activities to demonstrate their impact on the societies we serve.